

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference Wi-hf-01988	FOR FURTHER ACTION	
	See item 4 below	
International application No. PCT/EP2004/013254	International filing date (<i>day/month/year</i>) 22 November 2004 (22.11.2004)	Priority date (<i>day/month/year</i>) 03 December 2003 (03.12.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant BEIERSDORF AG		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report 29 August 2006 (29.08.2006)
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Authorized officer

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Form PCT/IB/373 (January 2004)

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

TRANSLATION

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	See form PCT/ISA/210
Applicant's or agent's file reference Wi-hf-01988		FOR FURTHER ACTION	
		See paragraph 2 below	
International application No. PCT/EP2004/013254	International filing date (day/month/year) 22.11.2004	Priority date (day/month/year) 03.12.2003	
International Patent Classification (IPC) or both national classification and IPC A61K31/365, A61K31/121, A61K35/78, A61K7/48, A61K7/42, A61P17/00			
Applicant BEIERSDORF AG			

<p>1. This opinion contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>
<p>2. FURTHER ACTION</p> <p>If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.</p> <p>If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.</p> <p>For further options, see Form PCT/ISA/220.</p> <p>3. For further details, see notes to Form PCT/ISA/220.</p>

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material

a sequence listing
 table(s) related to the sequence listing
 - b. format of material

in written format
 in computer readable form
 - c. time of filing/furnishing

contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																									
<p>1. Statement</p> <table> <tr> <td>Novelty (N)</td> <td>Claims</td> <td>1-13</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td>1-13</td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td>1-13</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> </table>			Novelty (N)	Claims	1-13	YES		Claims		NO	Inventive step (IS)	Claims		YES		Claims	1-13	NO	Industrial applicability (IA)	Claims	1-13	YES		Claims		NO
Novelty (N)	Claims	1-13	YES																							
	Claims		NO																							
Inventive step (IS)	Claims		YES																							
	Claims	1-13	NO																							
Industrial applicability (IA)	Claims	1-13	YES																							
	Claims		NO																							
<p>2. Citations and explanations:</p> <p>I. <u>Prior art documents</u></p> <p>D1: SHIBATA S ET AL: "INHIBITORY EFFECTS OF LICOCHALCONE A ISOLATED FROM GLYCYRRHIZA-INFLATA ROOT ON INFLAMMATORY EAR EDEMA AND TUMOR PROMOTION IN MICE" PLANTA MEDICA, vol. 57, no. 3, 1991, pages 221-224, XP009045109 ISSN: 0032-0943</p> <p>D2: US-B1-6 214 352 (MATSUMAWA SHINYA) 10 April 2001 (2001-04-10)</p> <p>D3: WO 03/070152 A (COGNIS DEUTSCHLAND GMBH & CO. KG; EGGLERS, ANKE; HIRSINGER, FRANK; MOSE) 28 August 2003 (2003-08-28)</p> <p>D4: PATENT ABSTRACTS OF JAPAN vol. 2003, no. 11, 5 November 2003 (2003-11-05) & JP 2003 201214 A (SHISEIDO CO LTD), 18 July 2003 (2003-07-18)</p> <p>D5: DATABASE WPI Section Ch, Week 200281 Derwent Publications Ltd., London, GB; Class B04, AN 2002-748666 XP002320778 & KR 2002 046 615 A (COREANA COSMETICS CO LTD) 21 June 2002 (2002-06-21)</p> <p>1. Novelty (PCT Article 33(2))</p> <p>The subject matter of the independent claims of the present application appears to be novel because it</p>																										

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

is contained in none of the documents of the available prior art.

D1 and D2 do not disclose 2,3-dibenzylbutyrolactone derivatives.

D3, D4, D5 do not disclose Licochalcone A or an extract comprising Licochalcone A.

2. Inventive step (PCT Article 33(3))

The subject matter of the present claims 1-13 does not involve an inventive step.

According to the present application (page 13, lines 3-21), a combination of 2,3-dibenzylbutyrolactone derivatives and Licochalcone A is used for improving a series of skin conditions, for example to combat inflammations, skin ageing, pigmentation.

The effectiveness of Licochalcone A against inflammations, pigmentation was known from D1 (page 224, section with the title "Discussion") or D2 (column 3, line 11-18).

The effectiveness of 2,3-dibenzylbutyrolactone derivatives, such as, for example, arctiin or arctigenin against skin ageing, inflammations, pigmentation was likewise known from D3 (page 2, 2nd paragraph - page 3, 3rd paragraph), D4 (abstract) and D5 (abstract). The claimed combination thus produces no effects which were not already known from the prior art. In the present application, further effects are neither disclosed nor verified experimentally. The claimed combination is thus to be regarded as arbitrary and noninventive.

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II. P documents

P1: WO 03/099244 A (BEIERSDORF AG; STAEB, FRANZ; WOLBER, RAINER; BLATT, THOMAS; KOLBE, LUD) 4 December 2003 (2003-12-04)

P2: WO 03/101414 A (BEIERSDORF AG; TOM DIECK, KAREN; KOLBE, LUDGER; MUNDT, CLAUDIA; WENSOR) 11 December 2003 (2003-12-11)

A decision as to the validity of the claimed priority of these documents was not possible since the priority document was not available at the time of the examination.

In the case of a valid priority, P1 and P2 do not form part of the prior art within the meaning of PCT Rule 64.1(b) (P doc).

However, should the priority claimed by the applicant not be valid, P1 and P2 would be relevant for the inventive step of the present claims.

P1 does not disclose Licochalcone A or an extract comprising Licochalcone A.

P2 does not disclose 2,3-dibenzylbutyrolactone derivatives.

The effectiveness of 2,3-dibenzylbutyrolactone derivatives against skin ageing, pigmentation, and the effectiveness of Licochalcone A against inflammations, skin dryness were known from P1 (page 4, line 1 - page 5, line 6; page 6, line 12 - page 7, line 35) and P2 (page 7, line 31 - page 9, line 13). The claimed combination thus does not produce any effects which were not already known from the prior art. In the present application,

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further effects are neither disclosed nor verified experimentally. The claimed combination is thus to be regarded as arbitrary and noninventive.

3. Conclusion

In the absence of an additional surprising effect caused by the claimed combination it is not evident which part of the application could form the basis for a new, allowable claim.